

Middletown Zoning Board of Review Minutes

April 23, 2013

The monthly meeting of Middletown Zoning Board of Review was held on April 23, 2013, at 7:00 pm. Roll Call: Present at the meeting were Chairman, Peter Van Steeden, Vice Chairman, Thomas Silveira, Lucy Levada, (secretary), Stephen MacGillivray, Charles Vaillincourt; and alternates James Miller, Nicholas Pasyanos and Olin Gambrell.

Election of Officers: Thomas Silveira nominated Peter Van Steeden for Chairman; seconded by Stephen MacGillivray; vote 5-0. Peter Van Steeden nominated Thomas Silveira for Vice Chairman; seconded by Lucy Levada; vote 5-0. Peter Van Steeden nominated Lucy Levada for Secretary, she declined and nominated Stephen MacGillivray for Secretary; seconded by Thomas Silveira, vote 5-0.

Lucy Levada presented her letter of resignation. Chairman Van Steeden thanked her, on behalf of the board and the Town, for her many decades of service.

Continuances/Withdrawals:

Petition of: John R. Gullison & Bonnie Zimble- PO Box 3129- Newport, RI (owners)- KJ's Pub, Inc- 59 Aquidneck Ave- Middletown, RI (applicant)- by their attorney Jeremiah C. Lynch, III- for a Special Use Permit from Section 602- to expand the service area of a standard

restaurant serving alcohol, to include seventeen (17) outdoor seats, as shown on the attached plan. Said real estate located at 59 Aquidneck Ave and further identified as Lot 169 on Tax Assessor's Plat 115SE. Attorney Jeremiah Lynch appeared to object to the request for continuance stating that objector's attorney had indicated that a representative from his firm would be present. Due to the many continuances of this matter, Petitioner sought a Special Meeting. The request was granted. The Special Meeting is set for May 7, 2013 at 7 pm.

Petition of: Dr. George P. Lewis, Lewis Family LP III- 100 Bailey Ave- Middletown, RI (owner)- by his attorney Brian G. Bardorf- Bardorf & Bardorf PC- 36 Washington Sq.- Newport, RI- for a Special Use Permit from Sections 1103 & 1108- to allow the construction of a single family dwelling located in zone 1 of the Water Protection District. Said real estate located at 14 Lewis Drive and further identified as Lot 947 (formerly lot 935-D) on Tax Assessor's Plat 125. This matter is still before the Planning Board and Conservation Commission, accordingly it is continued until May 28, 2013.

Petition of: Philip John Rondina- 379 Third Beach Rd- Middletown, RI (owner) - by his attorney Robert M. Silva, Esq.- 1100 Aquidneck Ave- Middletown, RI- for a Special Use Permit from Section 1103- to permit the construction of a single family dwelling pursuant to plans filed herewith, located in Zone 1 of the Watershed Protection District. Said real estate located at Cordeiro Terr. and further identified as Lot 59 on

Tax Assessor's Plat 126. Continued to June 25, 2013.

Petition of: Philip John Rondina- 379 Third Beach Rd- Middletown, RI (owner)- by his attorney Robert M. Silva, Esq.- 1100 Aquidneck Ave- Middletown, RI- for a Variance from Section 603 & 701- to permit the construction of a single family residential structure with a side yard setback of 16.1' where 30' is required and with a rear yard setback of 55.3' where 60' is required. Said real estate located at Cordeiro Terr. and further identified as Lot 59 on Tax Assessor's Plat 126. Continued to June 25, 2013.

Petition of: Philip John Rondina- 379 Third Beach Rd.- Middletown, RI (owner)- by his attorney Robert M. Silva, Esq.- 1100 Aquidneck Ave- Middletown, RI- for a Variance from Sections 603, 701 & 703(A)- to allow the construction of a 24' x 36' barn on existing foundation with a side yard setback of 16.1' where 30' is required and a rear yard setback of 55.3' where 60' is required. Said real estate located at Cordeiro Terr and further identified as Lot 59 on Tax Assessor's Plat 126. Continued to May 28, 2013.

Petition of: DDR Southeast Middletown, LLC c/o Bryan Zabell -3300 Enterprise Pkwy- Beachwood, OH (owner)- Site Enhancement Services c/o Shawn Smith -6001 Nimitz Parkway- South Bend, IN- for a Special Use Permit from Sections 1211 (D) (2) (B) - to allow a 198.17 sq. ft. internally illuminated wall mounted channel letter sign where 70 sq. ft. is allowed. Said real estate located at 1313 West Main Rd and

further identified as Lot 707 on Tax Assessor's Plat 112. Petitioner has withdrawn the application without prejudice.

Petition of: Linda Phelan- 272 Mitchells Ln.- Middletown, RI (owner)- for a Variance from Article 4 & Section 603- to allow the construction of a single family dwelling with developable land area of 38,902 sq. ft. where 40,000 sq. ft. is required. Said real estate located at Mitchell's Ln and further identified as Lot 13 on Tax Assessor's Plat 123. Continued to May 28, 2013.

Petition of: Linda Phelan- 272 Mitchells Ln.- Middletown, RI (owner)- for a Special Use Permit from Section 1106- to allow the construction of a single family dwelling in Zone 1 of the Watershed Protection District. Said real estate located at Mitchell's Ln and further identified as Lot 13 on Tax Assessor's Plat 123. Continued to May 28, 2013.

Petition of: Gertrude Realty LLC- PO Box 119 - Newport, RI (owner)- Gertrude Realty LLC C/O Ted Platz- 1038 Aquidneck Ave- Middletown, RI (applicant) - for a Special Use Permit from Section 602- to convert existing property into a small scale shopping center. Said real estate located at 1038 Aquidneck Ave and further identified as Lot 106 on Tax Assessor's Plat 113. Continued to May 28, 2013.

Referrals:

Petition of: Daniel G Kamin BJ's of Middletown, LLC- 490 South Highland Ave. - Pittsburg, PA (owner)- BJ's Wholesale Club, Inc- 25 Research Dr.- PO Box 5230- Westborough, MA (applicant)- for a Special Use Permit from Section 602(B)- to allow the construction of a propane dispensing facility in a (GBA) General Business/Traffic Sensitive zoning district consisting of two 1,000 gallon above ground LPG tanks and related appurtenances. Said real estate located at 173 East Main Road and further identified as Lot 107 on Tax Assessor's Plat 107SE. Lucy Levada moved to refer this matter to the Planning Board. Tom Silveira seconded. The matter was referred with a vote of 5-0.

Petition of: Daniel G Kamin BJ's of Middletown, LLC- 490 South Highland Ave. - Pittsburg, PA (owner)- BJ's Wholesale Club, Inc- 25 Research Dr.- PO Box 5230- Westborough, MA (applicant)- for a Variance from Section 1304- to allow 345 off-street parking spaces where 355 parking spaces are required. Said real estate located at 173 East Main Road and further identified as Lot 107 on Tax Assessor's Plat 107SE. Lucy Levada moved to refer this matter to the Planning Board. Tom Silveira seconded. The matter was referred with a vote of 5-0.

Full Hearings:

Petition of: Life Estate of Eugene O Dilizia- 79 Crest St.- Middletown,

RI (owner)- Arkadivsz Sudol- 5 Pearce Place- Mahopac, NY(applicant)- for a Variance from Section 603 & 701 - to demolish the existing single family dwelling and accessory structures and construct a new single family dwelling with a south side yard setback of 10' where 15' is required resulting in lot coverage of 18.2% where 15% is allowed. Said real estate located at 79 Crest St. and further identified as Lot 141 on Tax Assessor's Plat 116NE. Arkadivsz Sudol, the Petitioner, explained his petition stating that he wanted to tear down the existing structure and build a three-story home with a foot print of 1500 square feet. Exhibit a – Floor plans.

Michael Chechette and Kim Teves, the broker, spoke in support and presented Exhibit B, a list of other variances granted in the area.

Objectors, abutters to the north and south spoke out against indicating that the height and mass of the building combined with the requested reduced setback would negatively affect the area.

The meeting was closed and then reopened by motion of Charles Vaillincourt, seconded by Thomas Silveira and granted 5-0. Additional testimony was provided by Mr. Sudol.

A motion was made by Charles Vaillincourt and seconded by Thomas Silveira to approve. The motion failed by a vote of 1-4 and accordingly, the petition was denied.

Petition of: Aquidneck Tradesman Center- 855 Aquidneck Ave.- Middletown, RI (owner)- David E. Michael- 855 Aquidneck Ave- Middletown, RI (applicant)- for a Variance from Section 1301(B)- to allow 11 additional parking spaces on south property line without required landscaping buffer. Said real estate located at 855 Aquidneck Ave and further identified as Lot 133 on Tax Assessor's Plat 114.

Petition of: Stephen J Gleason- 475 Green End Ave- Middletown, RI (owner)- for a Variance from Sections 603, 701 & 803G- to allow the construction of a 122 sq. ft. one story addition with a left side yard setback of 12' and a right side yard setback of 13.7' where 20' is required and a rear yard setback of 39.8' where 50' is required and resulting in lot coverage of 25% where 20% is allowed. Said real estate located at 475 Green End Ave and further identified as Lot 183 on Tax Assessor's Plat 114. Stephen Gleason testified in favor of the petition. Lucy Levada moved to approve and Charles Vaillincourt seconded. The motion was granted 5-0 and accordingly, the petition was granted.

Petition of: 957 Plaza Associates, LLC- Polo Center 678 Aquidneck Ave- Middletown, RI (owner)-Site Enhancement Services/ Patrick Huyge- 6001 Nimitz Parkway- South Bend, IN (applicant)- for a Special

Use Permit from Sections 1211(D) 2b & 1211 (F) 4a- Advanced Auto Parts is requesting to construct an internally illuminated cloud cabinet wall sign on a 237 square foot sign panel where 70 square feet is allowed. Said real estate located at 957 West Main Rd and further identified as Lot 117 on Tax Assessor's Plat 106. Patrick Huyge from Site Enhancement Services presented the petition. Exhibit A was a sign detail. After initial discussion, this matter was continued to May 28, 2013.

Petition of: Dennis & Mary Turano- 182 Tuckerman Ave- Middletown, RI (owners)- for a Variance from Sections 603, 701 & 803G- to allow the construction of 1,409.7 sq. ft first & second floor additions and construct 1,584 sq. ft. total combined decks on first & second floor with a front yard setback of 11.5' where 25' is required and a right side yard setback of 13.6' where 15' is required and a rear yard setback of 12.9' where 30' is required and resulting in 35% lot coverage where 25% is allowed. Said real estate located at 195 Tuckerman Ave and further identified as Lot 30 on Tax Assessor's Plat 116SE. Mary Turano presented the petition. Discussion ensued regarding the insufficiency of the building plans submitted. The matter was continued until May 28, 2013 so that that petitioner could provide a set of building plans sufficient for the board to evaluate the petition.